

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED

NOV - 6 2007

William B. Guthrie
Clerk, U.S. District Court

By _____

Deputy Clerk

ARTHUR COTA,)
)
 Petitioner,)
)
 v.)
)
 OKLAHOMA/USA Esq.,)
)
 Respondent.)

Case No. CIV 07-364-RW

OPINION AND ORDER

Petitioner, an inmate who is incarcerated in Florence, Arizona, has filed a pleading on part of this court's habeas corpus form, but he alleges he is not filing a petition pursuant to 28 U.S.C. § 2254 or 28 U.S.C. § 2255. (Docket #1). Instead, he claims this action is filed pursuant to 28 U.S.C. § 1651, the All Writs Act. The respondent is named as "Oklahoma/USA Esq." Although the petition is difficult to read and to understand, petitioner asserts he is "seek[ing] a type of release in this action." (Docket #1 at 1). In addition, he alleges he has been falsely imprisoned and has been denied an appeal in Arizona. (Docket #1 at 2).¹

Plaintiff is a frequent litigator who has had many previous cases dismissed as frivolous or for failure to state a claim. *See Cota v. Baltimore/Honolulu Nat'l U.S. Cts.*, No. Civ. 07-443-HG-LEK, slip op. at 2-3 & n.1 (D. Haw. Sept. 7, 2007) (finding plaintiff's pleading "nearly incomprehensible" and dismissing action as frivolous) (citing *Cota v.*

¹ Petitioner also makes vague allegations of assault by an officer, threats against him by the Arizona Department of Corrections, and his desire to be placed in federal protective custody. (Docket #1 at 2). None of these claims is appropriate for a habeas corpus action.

United States Attorney's Office, S. Dist. of Cal., No. 04-1001-IEG ((S.D. Cal. June 30, 2004) (dismissed as frivolous); *Cota v. City of Okla. City*, No. Civ. 04-479 (N.D. Okla. Sept. 13, 2004) (dismissed for failure to state a claim); *Cota v. Okla. Responsible Roes*, No. Civ. 04-480 (N.D. Okla. Sept. 13, 2004) (dismissed for failure to state a claim); *Cota v. CA*, No. Civ. 04-3203-UA-JWJ (C.D. Cal. May 14, 2004) (dismissed as frivolous and for failure to pay filing fee); *Cota v. A.T.&T.*, No. Civ. 04-3447 (N.D. Ill. May 20, 2004) (dismissed as frivolous); and *Cota v. Casey*, No. Civ. 04-5090-MBM (S.D.N.Y. June 28, 2004) (dismissed as frivolous)).

Construing the petition liberally, as required by *Haines v. Kerner*, 404 U.S. 519 (1972), the court finds petitioner is attempting to file a habeas corpus petition pursuant to 28 U.S.C. § 2241, asking the court for earlier release. “A petition under 28 U.S.C. § 2241 attacks the execution of a sentence rather than its validity and must be filed in the district where the prisoner is confined.” *Bradshaw v. Story*, 86 F.3 d 164, 166 (10th Cir. 1996). Because petitioner is confined in Florence, Arizona, he must pursue any § 2241 claims in that district.

ACCORDINGLY, petitioner’s petition for a writ of habeas corpus [Docket #1] is DENIED, and this action is DISMISSED in its entirety.

IT IS SO ORDERED this 6th day of November 2007.



RONALD A. WHITE
UNITED STATES DISTRICT JUDGE